

Senate Bill No. 1248

CHAPTER 671

An act to add Article 4.2 (commencing with Section 512) to Chapter 1 of Part 2 of Division 1 of the Health and Safety Code, relating to waste.

[Approved by Governor October 8, 1995. Filed
with Secretary of State October 10, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1248, O'Connell. Local officers: released waste.

Existing law requires the Department of Toxic Substances Control and any local health officer or a local public officer designated by the Director of Toxic Substances Control to enforce the standards and regulations concerning hazardous waste.

Existing law allows a responsible party for a hazardous materials release site to make one request to the Site Designation Committee, which is within the California Environmental Protection Agency, to designate an administering agency to oversee a site investigation and remedial action at that hazardous materials release site.

This bill would authorize a party responsible for the release of waste, as defined, to request that a local officer, as defined, supervise a remedial action, as defined, for the cleanup of that waste, under prescribed circumstances. The bill would require that remedial actions be carried out pursuant to a remedial action agreement entered into by the local officer and the responsible party. The bill would specify the contents of the remedial action agreement, and would prescribe the duties and responsibilities of the local officer with regard to the remedial action agreement.

The bill would specify that it does not apply to certain described hazardous substance release sites or hazardous waste facilities.

The bill would authorize local officers to charge responsible parties a fee to recover the reasonable and necessary costs incurred in supervising the remedial action.

The people of the State of California do enact as follows:

SECTION 1. Article 4.2 (commencing with Section 512) is added to Chapter 1 of Part 2 of Division 1 of the Health and Safety Code, to read:

Article 4.2. Released Waste

512. (a) For purposes of this article, the following definitions apply:

(1) “Local officer” means a county health officer, city health officer, or county director of environmental health.

(2) “Person” has the same meaning as set forth in Section 25118.

(3) “Release” has the same meaning as set forth in Section 25320.

(4) “Remedial action” means any action taken by a responsible party to clean up a released waste, to abate the effects of a released waste, or to prevent, minimize, or mitigate damages that may result from the release of a waste. “Remedial action” includes the restoration, rehabilitation, or replacement of any natural resource damaged or lost as a result of the release of a waste.

(5) “Responsible party” means a person who, pursuant to this section, requests the local officer to supervise remedial action with respect to a released waste.

(6) “Waste” has the same meaning as set forth in subdivision (b) of Section 470.

(b) Whenever a release of waste occurs and remedial action is required, the responsible party for the release may request the local officer to supervise the remedial action. The local officer may agree to supervise the remedial action if he or she determines, based on available information, that adequate staff resources and the requisite technical expertise and capabilities are available to adequately supervise the remedial action.

(c) Remedial action carried out under this section shall be carried out only pursuant to a remedial action agreement entered into by the local officer and the responsible party. The remedial action agreement shall specify the testing, monitoring, and analysis the responsible party will carry out to determine the type and extent of the contamination caused by the released waste that is the subject of the remedial action, the remedial actions that will be taken, and the cleanup goals that the local officer determines are necessary to protect human health or safety or the environment, and that, if met, constitute a permanent remedy to the release of the waste.

(d) A local officer who enters into a remedial action agreement, as described in subdivision (c), may, after giving the responsible party adequate notice, withdraw from the agreement at any time after making one of the following findings:

(1) The responsible party is not in compliance with the remedial action agreement.

(2) Appropriate staff resources, technical expertise, or technical capabilities are not available to adequately supervise the remedial action.

(3) The release of the waste that is the subject of the remedial action is of a sufficiently complex nature or may present such a

significant potential hazard to human health or the environment that it should be referred to the Department of Toxic Substances Control or a California regional water quality control board.

(e) After determining that a responsible party has completed the actions required by the remedial action agreement and that a permanent remedy for the release of waste has been achieved, the local officer may provide the responsible party with a letter or other document that describes the release of waste that occurred and the remedial action taken, and certifies that the cleanup goals embodied in the remedial action agreement were accomplished.

512.1. This article shall not apply to any of the following:

(a) A hazardous substance release site listed pursuant to Section 25356, a site subject to an order or enforceable agreement issued pursuant to Section 25355.5 or 25358.3, or a site where the Department of Toxic Substances Control has initiated action pursuant to Section 25355.

(b) A site subject to a corrective action order issued pursuant to Section 25187 or 25187.7.

(c) A site subject to a cleanup and abatement order issued pursuant to Section 13304 of the Water Code.

(d) A facility that is subject to the requirements of Section 25200.10 or 25200.14.

512.2. Nothing in this article shall be construed as prohibiting the Department of Toxic Substances Control from assuming jurisdiction over a release pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20, or a California regional water quality control board or the State Water Resources Control Board from taking enforcement action against a release pursuant to Division 7 (commencing with Section 13000) of the Water Code.

512.3. A local officer shall provide written notification to the Department of Toxic Substances Control and the appropriate California regional water quality control board at least 10 working days prior to entering into a remedial action agreement with a responsible party pursuant to subdivision (c) of Section 512. The written notification shall include all of the following:

(a) The name and address of the responsible party.

(b) The name and address of the site owner.

(c) The address and location of the site to which the remedial action agreement will apply.

(d) A description of any known or planned local, state, or federal regulatory involvement at the site.

512.4. A local officer may charge the responsible party a fee to recover the reasonable and necessary costs incurred in carrying out this article.

